

Message Text

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ACTION EUR-25

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FM AMEMBASSY MOSCOW

TO SECSTATE WASHDC PRIORITY 1542

INFO AMCONSUL LENINGRAD

C O N F I D E N T I A L MOSCOW 12267

E.O. 11652: GDS

TAGS: CASC CGEN (KUDIRKA, SIMAS)

SUBJ: CONSULAR ACCESS TO KUDIRKA

REF: A. STATE 173825

1. SUMMARY: AUGUST 9 DCM MADE REPRESENTATION TO MFA PER REFTEL ABOUT EMBASSY'S REQUEST FOR CONSULAR ACCESS TO KUDIRKA. TO EMPHASIZE IMPORTANCE USG ATTACHED TO MATTER DCM GAVE MOMPLEKTOV, ACTING CHIEF OF USA DIVISOON, SUBSTANCE OF REFTEL AS ORAL STATEMENT. KOMPLEKTOV REPLIED THAT SENIOR MFA MINISTERS WOULD BE INFORMED OF DCM'S STATEMENT, BUT HE GAVE NO INDICATION CONSULAR ACCESS WOULD BE ALLOWED. END SUMMARY.

2. SPEAKING FIRMLY, KOMPLEKTOV REPLIED THAT HE "PERSONALLY AND UNOFFICIALLY" REGRETTEED VERY MUCH THAT US SIDE CHOSE TO MAKE SUCH STRONG REPRESENTATION ABOUT KUDIRKA CASE. HE RECALLED THAT SOME YEARS AGO KUDIRKA CASE CAUSED UNNECESSARY EMBARRASSMENT TO BOTH SIDES AND WAS EXPLOITED TO MAKE ANTI-SOVIET PROPAGANDA IN UNITED STATES. IT IS AGAINST INTERESTS OF BOTH SIDES TO RAISE CASE AGAIN NOW.

3. STILL SPEAKING "PERSONALLY," KOMPLEKTOV ASSERTED KUDIRKA CASE HAD NOTHING TO DO WITH US-USSR CONSULAR CONVENTION. KUDIRKA IS A SOVIET CITIZEN, AND SOVIET GOVERNMENT HAS NOT RECOGNIZED HIM AS AMERICAN CITIZEN. THIS, KUDIRKA'S STATUS IS NOT COVERED BY CONSULAR CONVENTION, AND "I CANNOT ACCEPT YOUR
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REFERENCE TO CONSULAR CONVENTION" IN KUDIRKA CASE. " JURIDICALLY

YOU DON'T HAVE A CASE, AND POLITICALLY YOUR REQUEST IS UNWISE."

4. KOMPLEKTOV ACKNOWLEDGED HE UNDERSTOOD DCM WAS UNDER INSTRUCTIONS, BUT SUGGESTED FACT THAT KUDIRKA CASE WAS BEING RAISED A T

THIS TIME WAS AT LEAST IN PART ATTRIBUTABLE TO SPECIAL INITIATIVE OF AMEMBASSY MOSCOW. KUDIRKA CASE "WAS NOT THE FIRST SUCH INSTANCE" IN WHICH AMEMBASSY MADE CASE AND GENERATED PRESS PUBLICITY ABOUT ALLEGED AMERICAN CITIZENSHIP OF SOVIET CITIZEN RESIDING IN USSR. KOMPLEKTOV NOTED THAT "THIS LINE CONTINUES," AND IS NOT HELPFUL TO US-SOVIET RELATIONS. DCM REFUTED ALLEGATION, AND ASSERTED AMEMBASSY WAS PERFORMING ITS RESPONSIBILITIES.

5. DCM REPLIED THAT US SIDE HAD LOOKED INTO KUDIRKA CASE IN LIGHT OF US LAWS CAREFULLY, FOUND THERE IS NO DOUBT HE IS US CITIZEN, AND THEREFORE USG HAS OBLIGATION. US SIDE'S READING IS THAT CONSULAR CONVENTION IS RELEVANT; DCM, THEREFORE, REJECTED KOMPLEKTOV COMMENT THAT CONSULAR CONVENTION NOT APPLICABLE. DCM REFERRED TO INTENSE INTEREST IN KUDIRKA CASE IN US, AND SUGGESTED CASE IS ONE WHICH "REASONABLE MEN AND REASONABLE GOVERNMENTS CAN SPEAK ABOUT IN ATTEMPT TO RESOLVE IN INTEREST OF BOTH SIDES." DCM SAID KUDIRKA AFFAIR WAS "TRAGIC CASE IN OUR RELATIONSHIP," AND HE HOPED MFA WOULD BE ABLE TO GIVE POSITIVE ANSWER TO ACCESS REQUEST IN SHORT PERIOD OF TIME.

6. TOWARD END OF DISCUSSION OF KUDIRKA CASE KOMPLEKTOV ASKED IF USG QUESTIONED FACT THAT KUDIRKA IS SOVIET CITIZEN. DCM REITERATED THAT, AS INDICATED IN ORAL STATEMENT, USG DOES NOT DISPUTE KUDIRKA IS SOVIET CITIZEN UNDER SOVIET LAW. KOMPLEKTOV REMARKED THAT US EMBASSY COUND NOT CONFER US CITIZENSHIP ON SOVIET CITIZENS AT RANDOM, AND SAID HE WOULD PERSONALLY BE INTERESTED TO SEE US LAW UNDER WHICH KUDIRKA ACQUIRED US CITIZENSHIP. HE STRESSED REQUEST WAS "UNOFFICIAL" AND FOR HIS "PERSONAL INFORMATION." CLEAR IMPLICATION OF KOMPLEKTOV'S REMARK WAS THAT HE QUESTIONED WHETHER KUDIRKA'S US CITIZENSHIP IS BONA FIDE.

7. WHILE EMBASSY APPRECIATES DEPARTMENT'S RESERVATION AS CONFIDENTIAL

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STATED STATE 161044 AGAINST PROVIDING ANY "LEGAL BRIEF," EMBASSY PLANS, UNLESS DEPT OBJECTS, TO PROVIDE KOMPLEKTOV WITH TEXT OF RELEVANT PARAGRAPH SECTION 205 OF NATIONALITY ACT OF 1940, QUOTED PARAGRAPH 4 MOSCOW 7485.

8. KOMPLEKTOV'S ARGUMENT THAT CONSULAR CONVENTION IS INAPPLICABLE IS SIMILAR TO POSITION EXPRESSED BY MFA CONSULAR ADMINISTRATION OFFICERS AT EARLIER LOWER-LEVEL DEMARCHE (MOSCOW 11552).

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